



## STATE BOARD OF LAND COMMISSIONERS

Dirk Kempthorne, Governor and President of the Board

Pete T. Cenarrusa, Secretary of State

Alan G. Lance, Attorney General

J. D. Williams, State Controller

Marilyn Howard, Superintendent of Public Instruction

Winston A Wiggins, Secretary to the Board

### Final Minutes Regular Land Board Meeting April 23, 2002

The regular meeting of the Idaho State Board of Land Commissioners was held on Tuesday, April 23, 2002 in Boise, Idaho. The meeting began at 9:06 a.m. The Honorable Dirk Kempthorne presided. The following members were present:

Honorable Secretary of State Pete T. Cenarrusa  
Honorable Attorney General Alan G. Lance  
Honorable Controller J. D. Williams  
Honorable Superintendent of Public Instruction Marilyn Howard

Secretary to the Board Winston A Wiggins

#### • **CONSENT AGENDA**

**Director Wiggins provided background information on the Consent Agenda items.**

**A motion was made by Attorney General Lance to approve the Consent Agenda in its entirety. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.**

#### **1. Director's Report – approved**

- A. Interest Rate on Departmental Transactions – April 2002
- B. Bureau of Minerals Official Transactions – February, March 2002
- C. Bureau of Real Estate, Land Sale Section, Official Transactions – February, March 2002
- D. Bureau of Real Estate, Easement Section, Official Transactions – February, March 2002
- E. Bureau of Range Management and Surface Leasing Official Transactions – March 2002
- F. Timber Sale Official Transactions – February 28, 2002 through April 2, 2002
- G. Timber Sale Activity Report – March 2002

#### **2. Approve Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved**

A. East Huckleberry	CR-1-0332	2,300 MBF
B. Katka Face	CR-2-0223	1,380 MBF
C. Upper Oviatt Relog	CR-4-0726	4,565 MBF
D. Round Prairie Pulp	CR-4-0729	2,485 MBF
E. Upper Trout Pole	CR-4-0739	1,150 MBF/181,350 LF
F. Hodson Pole	CR-4-0748	530 MBF/87,575 LF
G. Disappointed Hornet	CR-5-0104	1,045 MBF
H. Crouch View	CR-6-0159	1,200 MBF
I. East Face	CR-8-0092	2,115 MBF

**3. Qualified Bidders–Timber Sales – Staffed by Bob Helmer, Chief, Bureau of Forest Management – approved**

A. Barham, Inc., P.O. Box 629, 125 First, Orofino, ID 83544

**4. Deferred Road Maintenance – Staffed by Ron Litz, Assistant Director, Forestry and Fire – approved**

*DEPARTMENT RECOMMENDATION:* That the board direct the department to proceed with the proposed road maintenance.

*BOARD ACTION:* Approved.

**5. FY 2003 Tussock Moth Deficiency Warrant Authority – Staffed by Ron Litz, Assistant Director, Forestry and Fire – approved**

*DEPARTMENT RECOMMENDATION:* That the board authorize \$500,000 in emergency Deficiency Warrant Authority for a Douglas-fir tussock moth treatment program for 2003.

*BOARD ACTION:* Approved.

**6. Idaho Forest Products Commission – Timber License Plate Fees – Staffed by Betty Munis, Idaho Forest Products Commission – approved**

*DEPARTMENT RECOMMENDATION:* That the board approve the educational projects recommended by the Idaho Forest Products Commission and the Idaho Department of Lands. The projects will be supported by Timber License Plate Fees, as authorized in Idaho Code § 49-417A. The total License Fee Appropriation request is \$49,000.

*BOARD ACTION:* Approved.

**7. Technical Amendments to IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners – Staffed by Steve Schuster, Deputy Attorney General, IDL – approved**

*DEPARTMENT RECOMMENDATION:* That the board accept the department recommendation for modification of IDAPA 20.01.01, Rules of Practice and Procedure Before the State Board of Land Commissioners, and direct the department to submit the proposed rule revision to the Department of Administration, Office of Administrative Rules, for processing.

*BOARD ACTION:* Approved.

**8. Conceptual Approval of Land Exchange with State Board of Education for Property Located at the University of Idaho/Idaho State University Branch Campus at Idaho Falls – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved**

*DEPARTMENT RECOMMENDATION:* That the board conceptually approve the exchange proposal and direct the department to proceed with timber cruises and appraisals to determine which parcels to recommend for final acquisition.

*BOARD ACTION:* Approved.

9. **Request for Approval to Offer a 0.164 Acre Parcel of Public School Endowment Property, Located in Canyon County, for Sale** – Staffed by Perry A. Whittaker, Chief, Bureau of Real Estate – approved

*DEPARTMENT RECOMMENDATION:* That the board direct the department to offer 0.164 acres for sale at public auction with a minimum bid of \$114.80. Purchaser will be required to pay appraisal, certificate, deed and recording fees along with advertising costs in two (2) newspapers.

*BOARD ACTION:* Approved.

10. **Approval of Minutes – March 12, 2002 Regular Land Board Meeting** – approved

• **REGULAR AGENDA**

11. **Endowment Fund Investment Board Manager's Report** – Presented by Charles G. Saums, Manager of Investments, EFIB; Nick Hallett, Chairman, EFIB; Bob Maynard, Citizens' Evaluation Committee – **No Action Taken**

Mr. Maynard. Mr. Maynard presented a quarterly investment report. The report provides figures through March 31, 2002. Mr. Maynard feels that the board has two separate and identifiable roles. One role is an overseer of the investment activities of the Endowment Fund Investment Board. The second role is the board's direct control over the distribution policy. If the board perceives its role differently, the report will change. In his report, Mr. Maynard highlighted questions that the board can ask the Endowment Fund Investment Board, or their consultant, to assure that issues are being addressed.

*DISCUSSION:* Attorney General Lance commented that the assumption is the board is a passive responsible party. Mr. Maynard agreed. Attorney General Lance stated he is not prepared to agree with that assumption. Last year attempts were made by certain individuals to enter into contracts that would have waived the 11<sup>th</sup> Amendment of Immunity of the State of Idaho. This is a function that only the Governor and the Attorney General may have under certain circumstances. Attorney General Lance stated it bothers him when people are willing to waive the 11<sup>th</sup> Amendment of Immunity granted by the Constitution of the United States without even consulting this board. He disagrees with the characterization that the board is unable to fire or hire or to take other actions.

Mr. Maynard responded that the board has the authority to take control of all investments. However, the board has tended to be a passive participant. If the board wishes to become more involved in some or all aspects of investment activities then the nature of the report would change to reflect the information the board would need.

Attorney General Lance commented that either the board is passive or the board retains the ability to enter into contracts, with the ability to approve those contracts, the ability to hire and fire people as it deems appropriate, and the ability to talk to members of the Endowment Fund Investment Board as their employers, or at least in a supervisory chain. He is not prepared to take a passive role. Mr. Maynard stated that is exactly why he highlighted information at this particular point. As the board works into its new role, it may decide to take a more active role and that decision is appropriate. Mr. Maynard stated he does not know what the process would be to start and implement procedures in that direction. Attorney General Lance stated that, in his opinion, the board needs to be very careful in terms of what they delegate down the line. In particular, the board needs to take a very active role when it comes to contracting.

Governor Kempthorne asked Mr. Maynard about the poor performance indicated for U. S. bonds. Mr. Maynard stated that in September 2001 the board asked the consultant to look into the numbers. The consultant found that in the transition the portfolio held some bonds that were called "equity-

linked” bonds. The “equity-linked” bonds had an equity-linked debt and that debt declined during the initial months. The decline was actually beneficial to the entire portfolio because entry into the equity market was delayed. Subsequently the equity market crashed. Because more was kept in bonds for the first six months, the total portfolio outperformed.

Governor Kempthorne asked Mr. Maynard the following question:

- Does the Land Board want this fund to benefit when the market is good, knowing full well you are punished when the market is bad? Can the board afford to do that or should it take the more conservative approach because no one can predict the market?

Mr. Maynard stated that this is one of the reasons why the information has been brought to the Land Board. One of the key issues on investment is the whole is different than the sum of its parts. If you simply look at individual parts of the portfolio, and take individually safer routes, when you put it all together you end up being more dangerous. It is a completely different question if the EFIB asks for the board's only assets to fund these things versus the Endowment Fund Investment assets only being half, with timber revenue representing the other half. One of the benefits is when the market is bad, timber revenue still comes in as expected. The overall returns are positive for the year. While you should look at the parts to make sure they are all working as expected, when looking at the overall investment policy, you need to take into consideration the fact that you have timber on one hand and it is going to act over time in a more stable way. That allows the board to take a little riskier approach with the other assets.

Controller Williams asked Mr. Maynard the following question:

- When the investment policy was put together a couple of years ago, there were certain assumptions made and there have been changes since then. When should the board review its fundamental investment policy to see if the policy meets current needs?

Mr. Maynard stated he would not change the fundamental strategy because of temporary market events over the last year or two. However, the board should periodically review its policy to see whether long-term needs are being met. The board should always look at its fundamental policy because that is what it (the board) controls. A long term policy is just that – long term. A major problem is keeping the discipline on a long-term policy as the market goes up and down. Mr. Maynard feels that, in general, the economy looks relatively strong with a moderate and tepid growth because the consumer never stopped spending.

No action was taken on this agenda item.

## **12. FY 2003 Timber Sale Plan – Staffed by Ron Litz, Assistant Director, Forestry and Fire – approved**

*DEPARTMENT RECOMMENDATION:* That the board adopt the annual harvest recommendations for the Cataldo and St. Joe Supervisory Areas until the next inventory remeasurement and that the board direct the department to proceed with publication of the FY 2003 Timber Sales Plan.

*DISCUSSION:* Refer to the audiences with the board below.

*BOARD ACTION:* A motion was made by Attorney General Lance to adopt the FY 2003 Timber Sales Plan as proposed by staff. Controller Williams seconded the motion. The motion carried on a vote of 5-0.

### 13. Audience with the Board – John Robison, Idaho Conservation League

AUDIENCE WITH THE BOARD
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Mr. John Robison, Conservation Assistant, Idaho Conservation League, was granted an audience with the board.

**Mr. Robison.** Mr. Robison spoke on behalf of the Idaho Conservation League (ICL) and the Selkirk Conservation Alliance (SCA). On Tuesday, March 19, 2002, Mr. Robison and others met with Director Wiggins to discuss concerns related to some of the timber sales in the Priest Lake area. The state land at Priest Lake is home to five species listed by the U. S. Fish and Wildlife Service as either endangered or threatened under the Endangered Species Act. These species include grizzly bear, mountain caribou, bull trout, Canada Lynx and grey wolf. Mr. Robison realizes that the Land Board has a mandate to obtain the maximum long-term financial return on state lands in order to fund the school treasury. He also recognizes the value of timber sales as a resource of renewable income if trees are harvested in appropriate places, in a sustainable manner and with adequate provisions to protect water quality and wildlife. Mr. Robison feels that, unfortunately, the Department of Lands has a history of neglecting the sustainable long-term strategy in favor of liquidating assets for short-term profits.

Mr. Robison explained why he is concerned about this relatively small area of state land given Idaho's large areas of protected wilderness. He asked the board to look beyond Idaho's borders at the disturbing pattern that he hopes the board has the wisdom to avoid. In the last century, the worldwide rate of extinction has grown from a low background hum to a deafening roar. Scientists do not know how many species inhabit this world as species are driven extinct faster than they can be discovered, studied and protected. Habitat destruction is the number one cause. Since most of this destruction occurs in tropical rain forests in developing nations, Mr. Robison believes we have an added obligation, as a developed nation, to protect our remaining native species – particularly those that serve important roles in the ecosystem and are associated with American history and folklore.

Mr. Robison stated in narrowing his focus of grizzly bears specifically to what is happening on the Priest Lake state forest, he is worried that the open road and total road densities in the area are exceeding established minimum standards. He feels the core areas are below the minimum percent standards. For example, he stated the proposed "Lucky Up" timber sale will only exacerbate the situation by constructing, reconstructing and approving more roads. He is concerned that this will be an illegal "take."

Another species of concern is the Woodland Caribou. Some proposed timber sales have units within the recovery zone and he feels that could also constitute an illegal "take."

Lastly, regarding bull trout, every proposed timber sale scheduled for the year 2003, with the exception of the Moose Hunt sale, will present a "take" situation for bull trout. One of the waterways he is most concerned with is the East River.

Mr. Robison stated that if the Land Board moves forward without modifying the timber sales, the Idaho Conservation League and the Selkirk Conservation Alliance will have no choice but to pursue other options to prevent the destruction of clean water and wildlife habitat and

to stop the illegal “taking” of endangered species. This process may well result in costly delays that everyone would rather avoid. The choices will come down to either suspending all logging activity in the Priest Lake state forest or proceeding with the 2003 timber sales in such a manner that no illegal “takings” occur.

Mr. Robison believes there is a way to both fulfill the board’s mandate and to comply with existing laws protecting federally threatened wildlife. He suggested that the board (1) adopt a habitat conservation plan to minimize and mitigate the inevitable takings that will occur to the maximum extent practicable, (2) suspend all road building activities in Bear Management Areas that exceed the standards set by the U. S. Fish and Wildlife Service, (3) protect and preserve the early winter habitat for Woodland Caribou and (4) adopt PACFISH and INFISH measures on an interim basis.

*DISCUSSION:* Attorney General Lance asked Mr. Robison for his background. Mr. Robison stated he has a Masters Degree in botany from the University of Vermont’s Field Naturalist Program. He is a biologist from Bowdoin College and he has worked as a field researcher for Stanford’s Jasper Ridge Biological Preserve. Mr. Robison went on to teach high school biology and attended the Teton Science Schools Professional Residency in Environmental Education.

Director Wiggins provided clarification of the agenda item for the board. He stated that today the board is approving the Plan and not the individual timber sales. Each sale listed in the Plan will come before the board with considerable detail. The detail provided will outline not only the proposals for harvest (*i.e.*, how the harvest will take place, the levels of harvest and what the stand conditions will be upon completion), but also the mitigation measures that are included in the contract designed to address the issues that have been mentioned – wildlife, water quality, air quality, et cetera. Director Wiggins assured the board that the Department of Lands will not violate the Endangered Species Act. The ESA is a law and the department will comply with that law.

Director Wiggins stated the department is currently involved in discussions with the U. S. Fish and Wildlife Service regarding whether it is prudent to go forward with a Habitat Conservation Plan. Those discussions have been ongoing since late summer. Director Wiggins appreciates the concerns expressed today and the department would be happy to hear specific proposals from the ICL and the SCA. The department is open to incorporating suggestions, as appropriate, along with suggestions provided by other parties, including the Idaho Department of Fish and Game. The department consults with the Idaho Department of Fish and Game on every timber sale to ensure that management continues in a sustainable fashion.

Governor Kempthorne asked Director Wiggins the following question:

- Do I hear you correctly that the 2003 Timber Sale Plan is the goal, but the Plan is not approval of specific timber sales? Those timber sales would be forthcoming to the board for approval and in that setting, some of the issues raised, such as mitigations and habitat conservation plans, would be taken into account?

Director Wiggins responded yes. The department has worked on these sales on the ground during the past year. Department staff asked for input early into the process. The department then published ads asking people to come forward to express their concerns. What the board has now is sales that are well along in the process but that are not

completely prepared. The department has, to a large extent, incorporated a number of comments from different parties. The individual sales will come before the board for review and consideration virtually every month. The department presents to the board a single sheet summary of the proposed sale, but additional documentation is available at any point prior to approval of the sale.

Controller Williams observed that the role of the Land Board is unique in that the board has to balance many responsibilities while also complying with its constitutional mandate to maximize the return to the Endowment. At the same time, the board has to be very practical. It has to be cognizant that there are other factors to be taken into account besides money. During his tenure on the board, he has seen many changes. He has spent a lot of time in the Priest Lake area because of the state land there. That area is a huge part of the state's timber base and is a very valuable piece of property. He believes the board and the department are doing a better job of managing the forest and the land. One of the advantages the state has is the fact that it can be realistic. Most issues are resolved at the local level with only unresolved issues being brought before the board.

Controller Williams commented that Mr. Robison has identified three specific Priest Lake sales. He feels that the department is aware of the difficulties and problems within the area. A lot of state agencies will have the opportunity to provide input on the sales, along with the public, environmental groups and other entities. After comments are received, the department will put together the actual sales plan and contract terms, including all of the conditions. Hopefully the resulting process will work. If it does not, then the board and the department will go to another level. He hopes, however, that issues can be resolved. He feels Idahoans are smart enough, good enough and reasonable enough to be able to solve problems in local areas. Addressing Mr. Robison, Controller Williams stated he hopes that the ICL and SCA will allow the board and the department to continue doing their job again this year.

Mr. Robison responded, "Absolutely." However, one of his concerns is the length of time that the process could be drawn out. Some of the areas are critical habitat and once those areas are gone, the concern is that it could be the straw that breaks the camel's back for some of the species. That is why the ICL and the SCA is suggesting that the board and the department consider adopting some interim standards used by the federal government, such as PACFISH and INFISH. They are also asking that the board and the department respect recommendations made by the U. S. Fish and Wildlife Service concerning road density. The biggest issue is the impact of roads in these areas.

Governor Kempthorne asked Director Wiggins if he would address clear cuts and to what extent the department uses that option. Director Wiggins responded that a clear cut is a legitimate forest management tool. In the past, however, some parties over used that method. A number of years ago, the Land Board adopted a clear cut policy that restricts the size of a clear cut without board approval. For the department, clear cutting is a last resort.

The department's 2003 Timber Sales Plan includes 450 acres of clear cut out of almost 25,000 acres of operating area. The clear cut sizes vary. Clear cuts done improperly can have a terrible impact on water quality and on visuals. If clear cuts are not done properly, or if they are done in the wrong place, the results can cause long-term regeneration problems. Done properly there should not be a significant impact on water quality. If completed properly, clear cuts are a forest health tool that improves the vigor of the forest.

## AUDIENCE WITH THE BOARD

Ms. Jane Gorsuch, Vice President of Idaho Affairs for the Intermountain Forest Association, was granted an audience with the board.

**Ms. Gorsuch.** Ms. Gorsuch thanked the board for allowing her to speak on behalf of Idaho's non-industrial and industrial private landowners and mill operators in support of the Department of Lands 2003 Timber Sales Plan. Ms. Gorsuch welcomed the opportunity to help inform the public on the reasons why the Idaho Forest Practices Act and the Idaho Stream Channel Protection Act are protective of the environment and to reiterate that moneys generated from the timber sales provide a large amount of funding for Idaho's schools, both lower and higher education.

The Idaho Forest Practices Act (IFPA) was passed in 1974. The IFPA regulates forest practices in a way that maintains the productivity of the land, the quality of water, air and vegetative regeneration. It provides homes for fish and wildlife and it is a mandatory law. If a forest management activity is performed on the ground, the land manager is required to inform the Department of Lands of the intended activities. If a land manager performs an activity that is deemed to be in violation of the IFPA, the Department of Lands will complete an assessment of the situation and will notify the landowner regarding any problems found. If the landowner does not remedy the situation, the department will resolve the problems and will bill the landowner for those services provided to fix the problems. If the department's bill is not paid, the state can then attach a lien on the property so that if and when the landowner decides to sell the land, the state will be paid for its expenditures. Representing forest landowners in the state who make every attempt to be good actors, Ms. Gorsuch stated that this is a good method of maintaining the productivity of the state's timber lands.

Another protection law is the Idaho Stream Channel Protection Act. For any forest activity to take place that goes through or across or around a stream, all forest landowners in the state are required to obtain a Stream Channel Protection permit. The permit is designed to make sure that anyone crossing the stream does so in a manner that protects the quality of the stream and the integrity of the banks.

Ms. Gorsuch believes that many Idahoans do not understand the dynamic nature of the Forest Practices Act. It is a living document besides being statutory in requiring the improvements made for the protection of the land and the water. The IFPA is reviewed annually. Each year the Department of Lands audits the land. The department takes a diverse group of individuals out on the ground to view what is happening as a result of the activities on the land. In addition, the Idaho Department of Environmental Quality performs a quadrennial audit every four years. On site assessments are conducted on every land ownership in the state, including state lands, forest service lands, non-industrial private lands and private lands. The Department of Lands is the lead agency for this audit. Agencies invited to participate in the audit include the Idaho Department of Fish and Game, the U. S. Fish and Wildlife Service, the National Marine Fisheries Service, the non-industrial private and industrial private forest landowners along with university participants and environmental groups.



As a result of the audits, recommendations are made for improvements to the state's Forest Practices Act, Best Management Practices. These are the requirements on the land for protecting water quality from sedimentation and also provides for shade for stream temperatures as well as large organic debris requirements, which help create and protect fish habitat and streams. Those recommendations are then taken to the Idaho Forest Practices Act Advisory Committee, which is yet another very diverse group where all of the same groups are invited to participate. The Advisory Committee sits down and hashes through what needs to be changed in the BMPs to provide for an improvement in the applicability of the BMPs. It is a dynamic process open to public comment and participation from start to finish. The end of the process is a recommendation from the Forest Practices Act Advisory Committee. The recommendation is then taken through the rule making process and that ends up at the legislative level for additional public review and comment.

These audits have found that, almost 100% of the time on all land ownerships, the Idaho Forest Practices Act BMPs are applied and the effectiveness is high. This is particularly true of the quadrennial audits that look at both implementation and effectiveness. Where effectiveness is questioned, or is shown to be not as good as it could be, the Forest Practices Act Advisory Committee goes through a dynamic process to make improvements to the BMPs so that landowners can understand what must be done to protect Idaho's land, water and wildlife.

Regarding the Endangered Species Act, Ms. Gorsuch commented she has found a large misunderstanding about the requirements of the non-federal land owners. Many people understand that the federal government has the obligation to recover threatened and endangered species but that non-federal entities have only the obligation to avoid "take" of a listed species. The definition of "take" is quite broad and continues to be a matter of considerable litigation. Ms. Gorsuch feels that the Idaho Forest Practices Act protects listed species from "take" and meets the requirements of the Endangered Species Act. However, in many cases Idaho forest landowners, including the state, go much further than their legal requirements to assist the federal family in meeting its legal requirements under the Endangered Species Act.

Idaho has made great progress in the decade since 1974 in the implementation of the Idaho Forest Practices Act. At the beginning of this millennium there is more quality fish habitat for all species than is actually being occupied by the fish. While the state's current protections for fish and wildlife habitat are protective, there are excellent opportunities to continue to improve habitat on all land ownerships. Doing so helps to promote the recovery of native populations, which are depressed for other reasons. Through the usage of habitat conservation planning, which is provided for under the Endangered Species Act, private landowners and the state can help the federal government meet its recovery requirements. But as a starting point, there needs to be recognition for all of the improvements that the private and state have already made. There also has to be recognition that the Forest Practices Act is protective of avoiding "take."

In conclusion, Mrs. Gorsuch stated she believes the State of Idaho already has in place the protections necessary to meet the Endangered Species Act requirements regarding non-federal land ownerships. While some may wish to continue their attempt to eliminate timber harvests on all forest lands in the state through legal mechanisms, the non-industrial and industrial private landowners and mill operators continue to work hard to provide creative and innovative ways of increasing protections and habitat improvements not only for the

benefit of the land but also for the benefit of Idaho school children and for the endowment funds.

*DISCUSSION:* Governor Kempthorne commented that landowners within the private sector believe in sustainability. Much of the ground is private land and those landowners want to make sure they do have a sustained harvest over the years. Governor Kempthorne stated he is a firm believer in forest health. He believes if we do not remove some of the fuel load, we will continue to see massive forest fires. We will lose the canopy and temperature and sedimentation issues are compounded by that. It has to be a balanced approach.

Mr. Robison commented that he does agree the private sector and the state have made tremendous improvements over past historical logging practices. He stated he would be interested in going out in the field at some point to take a look at the good projects going on. However, he referred to the nebulous definition of “take” and stated that is really the issue. What constitutes a “take”? The ICL and SCA are very serious that a “take” is actually occurring with grizzly bears and bull trout based on 303d stream listings and road densities. He asked the board to specifically look at Outward Flats and to look at the width of the clear cut. He suggested that perhaps the individual timber sales and the Timber Sales Plan can be modified to include road densities and to take wildlife habitat into account.

No action was taken on this agenda item.

**14. *Table Rock Ranch, LLC, et al. v. State, Proposed Settlement Agreement* – Presented by Steve Schuster, Deputy Attorney General, IDL – approved**

*DEPARTMENT RECOMMENDATION:* That the board approve the Settlement Agreement as proposed.

*DISCUSSION:* None.

*BOARD ACTION:* A motion was made by Attorney General Lance to accept the department’s recommendation. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

- **At 10:48 a.m. a motion was made by Secretary of State Cenarrusa to resolve into Executive Session. Attorney General Lance seconded the motion. The motion carried on a vote of 5-0.**
- **EXECUTIVE SESSION**
- A. **To Consider and Advise Its Legal Representatives in Pending Litigation or Where There is a General Public Awareness of Probable Litigation [Idaho Code § 67-2345(1)(f)]**
- B. **To Consider Records Exempt from Disclosure as Provided in Idaho Code Chapter 3, Title 9 [Idaho Code § 67-2345(1)(d)]**
- C. **To Consider Personnel Matters [Idaho Code § 67-2345(1)(b)]**

- At 11:33 a.m. a motion was made by Attorney General Lance to resolve into Regular Session. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0. No actions were taken by the board during the Executive Session.

#### **ACTION TAKEN ON ITEM NOT ON THE AGENDA**

- **State of Idaho Land Board v. United States of America** – Presented by Clive Strong, Deputy Attorney General – **approved**

**DISCUSSION:** This item pertains to a quiet title action to resolve a dispute over the ownership of 213 islands in the Snake River. The settlement establishes that the United States owns 54 of the islands and the State of Idaho owns the remainder.

**BOARD ACTION:** A motion was made by Attorney General Lance to accept the settlement regarding the islands in the Snake River. Secretary of State Cenarrusa seconded the motion. The motion carried on a vote of 5-0.

There being no further business to come before the board, the meeting adjourned at 11:35 a.m.

IDAHO STATE BOARD OF LAND COMMISSIONERS

/s/ Dirk Kempthorne

President, State Board of Land Commissioners and  
Governor of the State of Idaho

/s/ Pete T. Cenarrusa

Pete T. Cenarrusa  
Secretary of State

/s/ Winston A Wiggins

Winston A Wiggins  
Director

The above-listed final minutes were approved by the State Board of Land Commissioners at the June 11, 2002 regular Land Board meeting.